



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

May 20, 1998

Ms. Laura S. Portwood  
Senior Assistant City Attorney  
City of Houston  
Legal Department  
P.O. Box 1562  
Houston, Texas 77251-1562

OR98-1279

Dear Ms. Portwood:

You ask this office to reconsider our ruling in Open Records Letter No. 98-0739 (1998). Your request for reconsideration was assigned ID# 116141.

The City of Houston (the "city") received a request for the city's entire file on an individual who applied for employment with the Houston Fire Department. In Open Records Letter No. 98-0739 (1998), this office concluded that the city could not withhold the requested information under section 552.103 of the Government Code. You ask this office to reconsider our ruling, and also ask why we released a small portion of the information provided to this office as justification for withholding the information under section 552.103. Furthermore, in a supplemental letter to this office dated April 24, 1998, you explain that an Equal Employment Opportunity Commission ("EEOC") claim was filed regarding this matter shortly after we issued the ruling.

We have reviewed your original arguments for withholding the information under section 552.103, as well as the additional information you have provided regarding this matter. With respect to your assertion on reconsideration that section 552.103 applies because an EEOC claim was filed, a governmental body is required to timely notify this office of any changed circumstances regarding its claims of anticipated litigation. *See e.g.,* Open Records Decision No. 638 (1996). From the documentation provided for our review, it appears that the Employment Opportunity Commission notified the city of the claim on March 20, 1998. You provided the additional information to this office on April 24, 1998, more than a month after the city was notified of the claim. You did not timely notify our office of any change in circumstances regarding your claims of anticipated litigation. We, therefore, affirm Open Records Letter No. 98-0739 (1998) in its entirety.

With respect to your concerns about restating part of your justification for withholding the information, we believe that the Open Records Act requires this office and governmental bodies to provide at least some explanation to the requestor as to the reasons why a governmental body wishes to withhold requested information under a particular exception. *See* § 552.301(b)(1) (requiring governmental body to provide reasons why a particular exception applies in any given instance); § 552.306 (attorney general shall promptly render a decision consistent with the standards of due process as to whether a particular exception applies to a request for information). There is no provision in the act that guarantees that information provided to the attorney general by a governmental body must be withheld by the attorney general. It is the practice of the attorney general to treat request letters from governmental bodies as being generally available to the public. *See* Open Records Decision No. 459 (1987). Although in some instances this office may withhold, in response to an open records request to this office, information provided by a governmental body, it is generally because the information reveals the content of the information responsive to the request or implicates an individual's privacy or proprietary interest. *Id.* That is not the case in this instance. Therefore, we do not believe that minimally restating your arguments to explain to the requestor your reasons for withholding the information under section 552.103 is an "unauthorized release" of information provided to the city.

If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay  
Deputy Chief  
Open Records Division

LRD/rho

Ref.: ID# 116141

Enclosures: Submitted documents

cc: Mr. Craig A. Sodolak  
8539 McDade  
Houston, Texas 77080  
(w/o enclosures)